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FACSIMILE TRANSMISSION

DATE: July 2, 2002
TO: Cliff Congo
FACSIMILE NO.: 703-308-6916
FROM: Teri Tomayko, secretary to Allen M. Krass
PAGES TRANSMITTED (INCLUDING COVER SHEET): 33

**FAX RECEIVED
JUL 02 2002
PETITIONS OFFICE**

ORIGINAL DOCUMENTS WILL _____ WILL NOT x FOLLOW

MESSAGE:

As indicated in your voice mail message, attached is a copy of the Petition filed in Application Serial No. 09/976,967. It was filed in response to a Notice of Missing Parts and copies of all documents filed are attached, including a copy of the returned postcard. Thank you for your assistance in this matter.

*Information contained in this facsimile may be **PRIVILEGED** and **CONFIDENTIAL**. It is intended only for the use of the person or entity named above. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is neither intended nor permissible. If this facsimile has been received in error, please notify us immediately (call collect) and return the facsimile to us.*

PATENT

The received stamp of the U.S. Patent and Trademark Office
hereon acknowledges the filing of:

☐ Transmittal Letter ☒ New Patent Application

Page(s) Specifications

Page(s) Claims

Page(s) Abstract

Sheets of Drawings

☐ Small Entity Declaration

☐ Declaration & Power of Attorney

☐ IDS, PTO 1449 & Patents

☐ Assignment & Recordation Cover Sheet

☐ Amendment/Response ☒ Check

*Check 660 (ext-400)
Petition for filing by other than all inventors*

Other: Exhibits A through E

Inventor:

James R. Mauet et al

Serial/Reg. No.

09/976,967 Atty Docket No. MJA-23702/03

Date:

March 12, 2002 Date Due:

☒ Cert. Of Mailing/Express Mail

EV 063795885 45

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PETITIONS OFFICE



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|--------------------|---------------------|-----------------------|------------------------|
| 09/976,967 | 10/12/2001 | James R. Moul | MJA-23702/03 |

CONFIRMATION NO. 2958

FORMALITIES LETTER



0000000007077776

GIFFORD, KRASS, GROH, SPRINKLE,
ANDERSON & CITKOWSKI, P.C.
Suite 400
280 N. Old Woodward
Birmingham, MI 48009

Date Mailed: 11/15/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION FAX RECEIVED

FILED UNDER 37 CFR 1.53(b)

JUL 02 2002

Filing Date Granted

PETITIONS OFFICE

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 130.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
 - drawing sheets do not have the appropriate margin(s) (see 37 CFR 1.84(g)). Each sheet must include a top margin of at least 2.5 cm. (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm. (5/8 inch), and a bottom margin of at least 1.0 cm. (3/8 inch);

A copy of this notice **MUST** be returned with the reply.

LAW OFFICES

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February 12, 2002

Our Files: MJA-22280/03 and MJA-23702/03

Dr. John Sanderson
11832 Sunrise Drive
Bainbridge, Washington 98110

Via Certified Mail
Return Receipt Requested

Re: U.S. Patent Application Serial No. 09/949,244
for "Image Based Diet Logging"

U.S. Patent Application Serial No. 09/976,967
for "System and Method of Integrated Calorie Management"

Dear Dr. Sanderson:

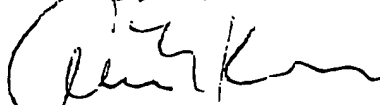
This firm represents HealtheTech, Inc. in its intellectual property matters. On October 23, 2001, we sent you letters forwarding copies of the above-identified applications (specification, claims and drawings) as well as a Declaration with Power of Attorney and Assignment for each application and requesting that you sign and date the application documents and return them to our office. Enclosed are copies of those letters and their enclosures.

In a follow-up phone conversation, you indicated that you were not sure whether you were going to sign the documents and would be speaking with your attorney this week.

If we do not receive the executed Declarations with Power of Attorney and Assignments for these applications by March 1, 2002, we will assume that you are not going to join in on these applications as a joint inventor by signing these documents and will take the necessary action to preserve our client's rights.

Please do not hesitate to contact me if you have any questions in regard to this matter.

Very truly yours,


Allen M. Krass

/s/
Enclosures

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JUL 02 2002

PETITIONS OFFICE

**Response To Notice To File Missing Parts Of Application
Filing Date Granted (PTO-1533)(Large Entity)**

Docket No.
MJA-23702/03

In Re Application Of: James R. Mault et al

Serial No.
09/976,967

Filing Date
October 12, 2001

Examiner

Group Art Unit
2166

Invention: SYSTEM AND METHOD OF INTEGRATED CALORIE MANAGEMENT

FAX RECEIVED

JUL 02 2002

PETITIONS OFFICE

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Box Missing Parts

This is a response to the Notice to File Missing Parts of Application - Filing Date Granted (PTO-1533) mailed on
November 15, 2001
Date

Enclosed herewith for filing are the following:

- ☒ A copy of the Notice to File Missing Parts of Application - Filing Date Granted (PTO-1533). (REQUIRED)
- ☒ An oath or declaration in compliance with 37 CFR 1.63, including residence information and identifying the application by the above Application Number and Filing Date.
- ☐ A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date.
- ☐ An oath or declaration in compliance with 37 CFR 1.63 listing the names of all inventors and signed by the omitted inventor(s), identifying this application by the above Application Number and Filing Date.
- ☐ A verified English translation of the non-English language application papers as originally filed. It is requested that this translation be used as the copy for examination purposes in the United States Patent and Trademark Office.
- ☒ Other (list):

Petition for Extension of time and associated fee (400.00)
 Notice to File Missing Parts and associated fee (130.00)
 Petition for filing application by other than all the inventors and associated fee (130.00)
 Assignment of Rights, Title and Interest in Invention (Exhibit A)
 Copies of Letter to Sanderson enclosing Declaration for Signature-Feb. 12th letter (Exhibit B)
 Copies of Certified Mail, Return Receipt Requested forwarded to John Sanderson-March 1st letter
 and Return Receipt For Correspondence signed by John Sanderson (Exhibit C)
 Declaration of Mark D. Schneider regarding non Signing Inventor (Exhibit D)
 Copy of Declaration and Power of Attorney bearing signature of James R. Mault and Nicholas Anderson
 and Rob Pledger (Exhibit E)

**Response To Notice To File Missing Parts Of Application
Filing Date Granted (PTO-1533)(Large Entity)**Docket No.
MJA-23702/03

In Re Application Of: James R. Mault et al

Serial No.
09/976,967Filing Date
October 12, 2001

Examiner

Group Art Unit
2166Invention: **SYSTEM AND METHOD OF INTEGRATED CALORIE MANAGEMENT**TO THE ASSISTANT COMMISSIONER FOR PATENTS:Box Missing Parts☒ Completion of application fees as calculated below:

- | | |
|---|-----------------|
| <input type="checkbox"/> Utility application filing fee | _____ |
| <input type="checkbox"/> Design application filing fee | _____ |
| <input type="checkbox"/> Total number of independent claims = _____ | _____ |
| <input type="checkbox"/> Total number of claims = _____ | _____ |
| <input type="checkbox"/> Multiple dependent claims | _____ |
| <input checked="" type="checkbox"/> Surcharge for late payment of filing fee and/or late filing of original declaration or oath | <u>\$130.00</u> |
| <input checked="" type="checkbox"/> Petition and fee for filing by other than all the inventors or a person not the inventor | <u>\$130.00</u> |
| <input type="checkbox"/> Fee for processing an application filed with a non-English language specification | _____ |
| <input type="checkbox"/> Fee for processing and retention of application | _____ |

Total completion of application fees \$260.00

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a response to the above-identified Notice to File Missing Parts of Application. The requested extension is as follows (check time period desired). If an additional time extension is required, please consider this a petition therefor.

☐ One month ☒ Two months ☐ Three months ☐ Four months ☐ Five monthsfrom: January 15, 2002

Date

until: March 15, 2002

Date

Total time extension fees \$400.00Total fees due \$660.00

**Response To Notice To File Missing Parts Of Application
Filing Date Granted (PTO-1533) (Large Entity)**Docket No.
MJA-23702/03

In Re Application Of: James R. Mault et al

Serial No.

09/976,967

Filing Date

October 12, 2001

Examiner

Group Art Unit

2166

Invention: **SYSTEM AND METHOD OF INTEGRATED CALORIE MANAGEMENT**TO THE ASSISTANT COMMISSIONER FOR PATENTS:Box Missing Parts

The fee of \$660.00 is to be paid as follows:

- ☒ A check in the amount of the fee is enclosed.
- ☒ The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 07-1180
- A duplicate copy of this sheet is enclosed.
- ☒ If an additional extension of time is required, please consider this a petition therefor and charge any additional fees which may be required to Deposit Account No. 07-1180
- A duplicate copy of this sheet is enclosed.

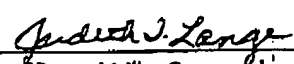

Signature

Dated: March 12, 2002

Mark D. Schneider, Reg. No. 43,906
Gifford, Krass, Groh, Sprinkle, Anderson
& Citkowski, P.C.
280 North Old Woodward
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exp.

I certify that this document and fee is being deposited on
3-12-2002 with the U.S. Postal Service as first
class mail under 37 C.F.R. 1.8 and is addressed to the
Assistant Commissioner for Patents, Washington, D.C.
20231. Label EV 06379588545


Signature of Person Mailing Correspondence

Judith T. Lange

Typed or Printed Name of Person Mailing Correspondence

cc: